

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CHARLES HICKS, #246241,

Plaintiff,

v.

JOHN CUMMINGS, et al.,

Defendants

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CIVIL ACTION NO. 2:07-CV-257-MHT

ORDER ON MOTION

Upon consideration of the motion for leave to amend filed by the plaintiff on May 2, 2007 (Court Doc. No. 9), in which the plaintiff seeks to assert additional facts in support of his claims for relief against defendant Debra Martin, and for good cause, it is

ORDERED that:

1. The motion for leave to amend be and is hereby GRANTED.
2. Defendant Martin undertake a review of the subject matter of the complaint, as amended, (a) to ascertain the facts and circumstances; (b) to consider whether any action should be taken to resolve the subject matter of the complaint; and (c) to determine whether other similar complaints should be considered together.
3. Defendant Martin shall file a written report containing the sworn statements of all persons having knowledge of the subject matter of the complaint, as amended. This report shall be filed with the court and a copy served upon the plaintiff on or before May 23, 2007. Authorization is hereby granted to interview all witnesses, including the plaintiff. Whenever relevant, copies of medical and/or psychiatric records shall be attached to the written report. Where the plaintiff's claims or the defendants' defenses relate to or involve the application of administrative rules, regulations or

guidelines, the written report shall include copies of all such applicable administrative rules, regulations or guidelines.

4. On or before May 23, 2007, defendant Martin shall file an answer to the complaint, as amended.

5. No motion for summary judgment, motion to dismiss or any other dispositive motions addressed to the complaint, as amended, be filed by any party without permission of the court. If any pleading denominated as a motion for summary judgment, motion to dismiss or other dispositive motion is sent to the court, the court shall not file or otherwise treat the pleading as a dispositive motion until and unless further order of the court.

6. NOTICE TO PLAINTIFF.

(a) The *Federal Rules of Civil Procedure* require that the plaintiff mail to the lawyer for the defendants or, if no attorney has appeared on behalf of the defendants, the defendants themselves a true copy of **anything** which he sends to the court. Failure to do so may result in dismissal of this case or other penalties. Anything filed should contain a certificate of service which specifically states that the pleading has been sent to the lawyer for the defendants. If the pleading does not contain a certificate of service, it will not be accepted for filing.

(b) With the exception of the complaint and any response ordered by the court, “[n]o other pleading shall be allowed” in this cause of action. Rule 7(a), *Federal Rules of Civil Procedure*.

(c) Each pleading, motion or other application submitted to the court shall contain "a caption setting forth the name of the court, title of the action, the file number, and a designation[.]" Rule 10(a), *Federal Rules of Civil Procedure*, and must be signed by the plaintiff.

Rule 11(a), *Federal Rules of Civil Procedure*.

(d) Every application which requests an order or particular action by the court "shall be [presented] by motion which, unless made during a hearing or trial, shall be made in writing." Rule 7(b)(1), *Federal Rules of Civil Procedure*. The application "shall set forth with particularity the grounds" for the motion and "the relief or order sought." *Id.* Additionally, the request or application for relief must contain a proper caption setting forth a title designation which specifically states the action that the applicant or movant wants the court to undertake. Rules 7(b)(2) and 10(a), *Federal Rules of Civil Procedure*. Any application or request which fails to comply with the directives of the civil rules as outlined in this order will not be accepted by the court for filing.

The plaintiff is hereby advised that the court will consider only those requests presented in an appropriate motion which is in the proper form. Consequently, any application for relief or request for action *must be contained in the title of the motion* to warrant consideration by the court.

(e) Any additional proposed amendments to this cause of action must be labeled with the words "amendment to complaint" or similar language, shall contain claims or facts which relate to the original complaint, and must be accompanied by a motion for leave to amend. *Additionally, no further amendments will be allowed unless the plaintiff establishes extraordinary circumstances justifying why such claims were not previously presented to the court.*

(f) It is the responsibility of the plaintiff to furnish the clerk's office with accurate addresses for the defendant(s) whom plaintiff wishes to serve. Without accurate addresses, service of process is impossible. It is also the responsibility of the plaintiff to monitor this case to make sure

that the persons whom plaintiff wishes to sue have been served. If a person has not been served, he/she is not a party to this lawsuit except in very unusual circumstances.

The plaintiff is specifically **CAUTIONED** that his failure to file motions, pleadings or other papers in conformity with the *Federal Rules of Civil Procedure* and/or the directives contained in this order will result in such documents not being accepted for filing. The CLERK is **DIRECTED** to not accept for filing any pleadings, motions or other applications submitted by the plaintiff which are not in compliance with either the *Federal Rules of Civil Procedure* or the directives contained in this order.

The CLERK is hereby **DIRECTED** to furnish a copy of this order to the plaintiff and a copy of this order, the complaint and amendment to the complaint to counsel of record for Debra Martin.

Done this 3rd day of May, 2007.

/s/ Charles S. Coody
CHARLES S. COODY
CHIEF UNITED STATES MAGISTRATE JUDGE